SENATE RECORD VOTE ANALYSIS

TAXPAYER RELIEF ACT/Lifetime Limit on Lower Capital Gains Tax

SUBJECT: **Taxpayer Relief Act of 1997 . . . S. 949. Dorgan amendment No. 517.**

ACTION: AMENDMENT REJECTED, 24-75

SYNOPSIS: As reported, S. 949, the Taxpayer Relief Act of 1997, will provide net tax relief of $76.8 billion over 5 years and $238 billion over 10 years. The cost will be more than offset by the economic dividend ($355 billion over 10 years) that will result from balancing the budget in fiscal year (FY) 2002. This bill will enact the largest tax cut since 1981 and the first tax cut since 1986. It will give cradle-to-grave tax relief to Americans: it will give a $500-per-child tax credit, education tax relief, savings and investment tax relief, retirement tax relief, and estate tax relief. Over the first 5 years, approximately three-fourths of the benefits will go to Americans earning $75,000 or less. It will eliminate a third of the increased tax burden imposed by the 1993 Clinton tax hike, which was the largest tax hike in history.

The Dorgan amendment would impose a $1 million per person lifetime limitation on the amount of capital gains that would be subject to the lower capital gains taxes in this bill. (The bill will lower the capital gains tax for individuals in the 15-percent tax bracket to 10 percent, and it will lower it for individuals in higher tax brackets from 28 percent to 20 percent. Income from the sale of depreciable real estate, to the extent it would have been treated as ordinary income, will be taxed at a 24-percent rate. The rate on collectibles will remain 28 percent. The maximum exclusion of gain from the sale of a principal residence will be increased to $250,000 (or $500,000 for married couples filing jointly) from $125,000. The exclusion will be allowed for anyone who has occupied the property for at least 2 of the previous 5 years. No limits will be placed on the number of exclusions that an individual will be eligible to take. Provisions to lower the capital gains tax on small businesses will also be enacted.)

Those favoring the amendment contended:

Most of the people who will benefit from the capital gains provisions in this bill will be of modest means, but most of the benefits from those provisions will go to the wealthiest 1 percent of Americans. We are very happy to give relief to Americans of modest

(See other side)

YEAS (24)		NAYS (75)			NOT VOTING (1)	
Republicans (0 or 0%)	**Democrats (24 or 53%)**	**Republicans (54 or 100%)**		**Democrats (21 or 47%)**	**Republicans (1)**	**Democrats (0)**
	Akaka	Abraham	Helms	Baucus	Roberts-2	
	Boxer	Allard	Hutchinson	Biden		
	Byrd	Ashcroft	Hutchison	Bingaman		
	Conrad	Bennett	Inhofe	Breaux		
	Daschle	Bond	Jeffords	Bryan		
	Dorgan	Brownback	Kempthorne	Bumpers		
	Durbin	Burns	Kyl	Cleland		
	Feingold	Campbell	Lott	Dodd		
	Ford	Chafee	Lugar	Feinstein		
	Harkin	Coats	Mack	Glenn		
	Hollings	Cochran	McCain	Graham		
	Inouye	Collins	McConnell	Kerrey		
	Johnson	Coverdell	Murkowski	Kerry		
	Kennedy	Craig	Nickles	Kohl		
	Lautenberg	D'Amato	Roth	Landrieu		
	Leahy	DeWine	Santorum	Lieberman		
	Levin	Domenici	Sessions	Moseley-Braun		
	Mikulski	Enzi	Shelby	Moynihan		
	Murray	Faircloth	Smith, Bob	Reid		
	Reed	Frist	Smith, Gordon	Torricelli		
	Robb	Gorton	Snowe	Wyden		
	Rockefeller	Gramm	Specter			
	Sarbanes	Grams	Stevens			
	Wellstone	Grassley	Thomas			
		Gregg	Thompson			
		Hagel	Thurmond			
		Hatch	Warner			

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

means, but wealthy people just do not need the help, and giving it to them in the manner suggested will likely lead to even greater market distortions than our colleagues are trying to correct. Therefore, we have proposed the Dorgan amendment, which would apply the lower rates to the first $1 million in capital gains earned in a lifetime. This limitation would not affect the capital gains tax relief that this bill will give to most Americans, because 89 percent of the beneficiaries of this tax cut have less than $10,000 in annual capital gains income. The top one-half of 1 percent of Americans, however, have $200,000 in annual capital gains income. They will get fully half of the tax relief from the capital gains tax cut. The Dorgan amendment we believe is more than generous to these rich Americans. It would give them tax breaks until they hit their $1 million lifetime caps, and then they would pay the current 28 percent. That rate, we remind our colleagues, is already lower than their income tax rate, so they already have ample incentive to plow their money into investments instead of taking it as earned income. Our colleagues tell us that if we do not lower the tax for everyone, rich people will sit on their investments to avoid any tax at all, and the market will be distorted. We believe that it is more likely that if we drop the tax rate for rich people, the disparity between their income tax rate and their capital gains tax rate will be so great that they will hire armies of accountants to figure out how to turn their earned income into capital gains. This fear is based on experience; before the 1986 tax reform, rich people did exactly that. Another point that needs to be made is that if we lower the tax rate for rich people so that they can keep rolling their money over into new investments, thereby creating new jobs, we will need to get more income from people who are not rich. If we keep the taxes high on average Americans, those average Americans will never have the opportunity to accumulate capital and themselves invest and create new jobs. The Dorgan amendment would not eliminate the benefit for rich people; it would only cap it. It is a fair proposal that merits our support.

Those opposing the amendment contended:

We have one major objection to this amendment and two lesser objections. The major objection is that it defeats the main purpose of a capital gains cut, which is to free up capital that is locked in mature investments. Every capital gains cut that has been enacted has led to huge new capital gains tax collections and economic, including job, growth. This paradoxical result is due to the fact that no taxes can be collected if assets are not sold, and when taxes are high people are more likely to keep their assets to avoid taxes than they are when taxes are low. A recent survey of millionaires found that they either became wealthy from starting businesses or from inheriting money from people who started businesses. Wealth is created by entrepreneurship. People who are willing to put their lives' savings on the line to push new businesses are the main cause of economic growth. Such people are rare, and those who succeed and become wealthy are even rarer. Once they are wealthy, they do not lose the entrepreneurial spirit, but they often sit on their wealth anyway instead of selling their businesses and starting new enterprises because the tax is so prohibitive. Such wealthy entrepreneurs are still the main source for new companies and new jobs, but they start those companies by borrowing money, which limits their growth because they start under a debt burden. The two lesser objections we have to this amendment are that it is inconsistent with our colleagues' professed desire to increase the capital gains' exclusion for small business stock to $20 million from the current $10 million, and that it would be an administrative impossibility for the Internal Revenue Service to keep track of individuals' lifetime capital gains earnings. We recognize and appreciate how strongly our colleagues feel on this issue, but their amendment would seriously weaken the benefits of the capital gains reform proposals in this bill. We accordingly urge the rejection of the Dorgan amendment.